

Deckard, Trent

From: Deckard, Trent
Sent: Tuesday, September 25, 2012 2:53 PM
To: Pam Jones
Cc: King, Brad; Barnes, Leslie; Simmons, Dale; 'Dena Willis'
Subject: Following Up

Pam and Dena,

Thanks for your questions. Please see the response of Brad and I below. We did work as quickly as we could to get back with you, but as the election approaches we have less time than we formerly did. We hope this information is helpful to you.

Trent

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If a person is unclear concerning election law provisions, the Election Division can serve as an interpretive source. However, where important legal rights are concerned, you must consult with your own attorney to be fully and properly advised.

From: Pam Jones [<mailto:pjones@MadisonCounty.IN.Gov>]
Sent: Monday, September 24, 2012 2:36 PM
To: Barnes, Leslie; Deckard, Trent; King, Brad; Simmons, Dale
Cc: Dena Willis
Subject: Madison County Voter Registration

We at Madison County Voter Registration are facing an unprecedented cut of two thirds of our office staff and we are needing some direction in how to move forward, so we have a couple of questions regarding our work load and voter list maintenance programs:

In speaking with you all last week you emphasized that we must have a voter maintenance program in place. Please explain the process of voter list maintenance programs and the Indiana Code that pertains to it. Secondly, please specify if this is a county-wide maintenance program or not.

-Voter list maintenance is a comprehensive and county-wide program conducted according to Indiana code, which often repeats requirements found in federal code. Specifically, IC 3-7-38.2-1 indicates that "each county voter registration office shall conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters due to a change of residence of the voter". IC 3-7-38.2-2 goes on to say that voter list maintenance program be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965, that it not result in the removal of the name of a person from the official list of voters solely due to the person's failure to vote, and that it be completed not later than ninety days before a primary, general, or municipal election. When code indicates that a program be "uniform" and "non-

discriminatory” it means that the program be county-wide and include everyone, not just a particular section of county involving limited precincts or area. IC 3-7-38.2-2 goes on to say that a county must mail a notice to each registered voter listed in the voter registration record and determined by the county voter registration office not to be the voter’s current residence address. It also discusses what sources of information can be used to determine what is not a voter’s current residence address (specifically identified in IC 3-7-38.2-2 as the United States Postal Service National Change of Address Service, a court regarding jury duty notices, the return of a mailing sent by the county voter registration office to all voters in the county, the bureau of motor vehicles concerning the surrender of a voter’s Indiana license for the operation of a motor vehicle to another jurisdiction), how the notice must be sent, and what happens should a voter return or not return the card.

-In addition to this procedure above, a county voter registration office must also continue to process voter registration applications and address corrections and updates that arrive to county officials as well as move voters in the voter list as precinct changes are incorporated. A county official conducting doing all duties and conducting voter list maintenance should be familiar in Title 3 with Article 7, Chapter 11, Chapter 12, Chapter 13, Chapter 14, Chapter 15, Chapter 16, Chapter 17, Chapter 18, Chapter 19, Chapter 20, Chapter 21, Chapter 22, Chapter 23, Chapter 24, Chapter 26.3, Chapter 26.4, Chapter 26.7, Chapter 27, Chapter 28, Chapter 29, Chapter 30, Chapter 31, Chapter 32, Chapter 33, Chapter 34, Chapter 35, Chapter 36, Chapter 37, Chapter 38.2, Chapter 39, Chapter 40, Chapter 41, Chapter 42, Chapter 43, Chapter 45, and Chapter 48 specifically for duty areas. In addition, a county voter registration official should also be familiar with the 2012 County Voter Registration Guidebook (attached) and standard operating procedures found in the Statewide Voter Registration System (SVRS) and produced by the bi-partisan Indiana Election Division.

What kind of liability is the County exposed to if we fail to conduct voter list maintenance programs?

- A county not performing voter list maintenance programs, as provided in Indiana code could find itself susceptible to an NVRA complaint, action of the Department of Justice, or a lawsuit against the county. Further, the county would not be complying with the intent of NVRA which is to remove ineligible voters from rolls and to maintain as accurate lists of voters, as possible.

How often or at what interval are we now required to perform these voter list maintenance programs?

- In IC 3-7-38.2-1 the wording does not indicate a time-period and instead says “shall conduct a general program”. As you probably know, “shall” does not provide the county with choices. Code also indicates that it is indeed, “voter list maintenance” which implies that it a constant process of maintenance to keep accurate records.

What are the consequences of not meeting the deadlines of voter list maintenance programs? (Back in 2006 if we did not meet a certain deadline, we were told the County could be fined.)

- A county not performing voter list maintenance programs, as provided in Indiana code could find itself susceptible to an NVRA complaint, action of the Department of Justice, or a lawsuit against the county. Further, the county would not be complying with the intent of NVRA which is to remove ineligible voters from rolls and to maintain as accurate lists of voters, as possible. Weakened confidence in the voter registration rolls lends itself to rumors about who is on voter lists and ultimately who can/cannot vote.

Is 2013 the year that all cities and towns can redistrict?

- Cities and towns actually conduct redistricting by the end of this year and following those changes, voter registration officials will be tasked with updating registration records to reflect changes in addition to other duties. It should also be remembered that following the election, voter registration officials will also be tasked with updating the statewide voter registration system to reflect who actually voted which

is an important component of voter list maintenance. In many cases, inactive voters not voting for two general elections would be removed from the registration lists pursuant to IC 3-7-38.2-17.

With over 94,000 registered voters, does it seem feasible to do the required daily work, along with the voter list maintenance programs and cities and towns redistricting with only 2 full-time people and 2 part-time people for approximately 3 months?

- We can only say that all of the programs described are complicated and time-intensive programs that have great importance in determining who is eligible to remain on voter lists in the State of Indiana, as a required function of code. As these are questions of suffrage, it is important that counties proceed with care and caution when determining if someone should be removed. Failures to do so could result in ineligible voters remaining on lists or confusion on Election Day and disenfranchisement when an individual is removed without the county following proper safeguards required by federal and state code.

Is it your opinion that someone could walk in to Voter Registration and start working or would they need special training to be able to learn the process, the system and the law?

- If an individual was familiar with everything discussed above, they could likely start on day-one as a fully trained individual. If not, they would need familiarity with items discussed above before proceeding.

What are the consequences of not meeting daily work load deadlines?

- We only know about consequences related to the failure to perform the voter list maintenance program, which we mention above. A county not performing voter list maintenance programs, as provided in Indiana code could find itself susceptible to an NVRA complaint, action of the Department of Justice, or a lawsuit against the county. Further, the county would not be complying with the intent of NVRA which is to remove ineligible voters from rolls and to maintain as accurate lists of voters, as possible. Weakened confidence in the voter registration rolls lends itself to rumors about who is on voter lists and ultimately who can/cannot vote.

We realize this is short notice but we are due to meet tomorrow with our respective chairman's and would appreciate a response as soon as possible.

Thanking you in advance.

Pam Jones & Dena Willis
Madison County Voter Registration Board Members